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justice, peace and creation news

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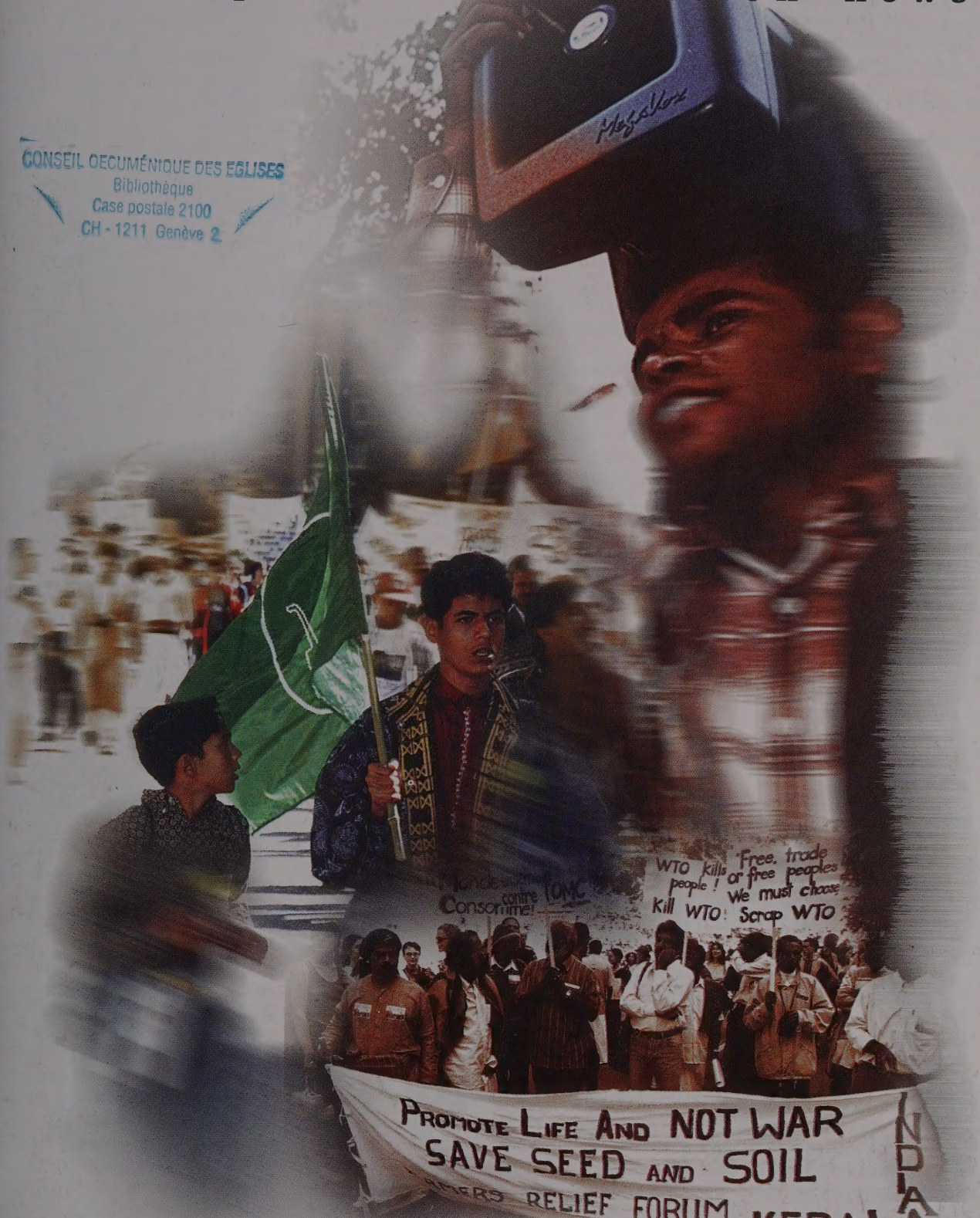

The New Shape of Global Capitalism

Watch out!

Echoes From Elsewhere

An Introduction To Echoes Magazine In Reactions, Facts and Issues From All Over The World

E R R A T U M

Our sincere apologies to Sergio Centeno for omitting to credit his very fine artwork in our issue no. 14 (backcover). Sergio Centeno, from Puerto Rico, created a series of banners and posters to illustrate the WCC's 50th anniversary. They are on display at the WCC headquarters in Geneva.

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The Landmines' Campaign still needs the churches!

The statistics are sobering... Millions of mines are scattered over 70 countries in Africa, Asia, Europe, the Middle East and the Americas. The most severely affected countries are Afghanistan, Angola, Bosnia and Herzegovina, Cambodia, Croatia, Eritrea, Iraq (Kurdistan), Mozambique, Somalia, Sudan and Vietnam.

Landmine infestation around strategic sites can deny access to safe drinking water, arable land and prevent mobile rural vaccination teams from going their rounds.

Over the last 55 years, anti-personnel mines have caused more deaths and injuries than nuclear, biological and chemical weapons combined.

The International Committee of the Red Cross estimates that 800 people are killed by mines every month and another 1200 are maimed – a total of 2000 victims a month and close to 25,000 a year.

The UNICEF estimates that of these victims, 5000 to 6000 are children.

What can churches do once the 40 initial ratifications have been achieved?

Continue to monitor, monitor, monitor...! Keep up the pressure on governments which have signed and not ratified or which have not signed;

monitor the compliance of your government with the Convention requirements on the destruction of stockpiles and the clearance of mined areas;

monitor the commitment of your government to mine victim assistance and humanitarian mine action programmes;

report breaches of the Convention to the International or national campaign to ban land mines, or the Red Cross/Red Crescent Society or UNICEF who may inform the United Nations Secretary-General and raise the issue with the media.

Finally, keep the International Campaign to Ban Land mines and/or Lutheran World Federation (Ms Rebecca Larson, e-mail: rl@lutheranworld.org), World Alliance of Reformed Churches (Mr Seong-Won Park, e-mail: swp@wcc-coe.org) and WCC (Ms Mariette Grange, e-mail: mgm@wcc-coe.org) informed of your progress and undertakings.

More information and relevant addresses relating to the Land mines campaign can be found on: http://wcc-coe.org/wcc/what/international/landmines. The LWF and WARC share the same postal address with the WCC: PO Box 2100, 1211 Geneva 2, Switzerland.

Traitor technology: the "terminator's" wider implications

In March of 1998, a seed company later to be purchased by Monsanto, Delta and Pine Land Company, in collaboration with the United States Department of Agriculture, was awarded US Patent Number 5,723,765: Control of Plant Gene Expression. Although the patent is broad and covers many applications, one application favoured by the patent's authors is a scheme to engineer crops to kill their own seeds in the second generation, thus making it impossible for farmers to save and replant seeds.

One year later, disturbing new dimensions to the trait control technology have appeared in more than two dozen patent claims from 12 institutes – moving the debate well beyond the Terminator's ability to genetically-alter a plant to render it seed sterile. The Terminator is a threat to agricultural biodiversity, future scientific research, and to the food security of the 1.4 billion rural people who rely on farm-saved seed and community plant breeding. Companies are now working to control several important genetic traits with a number of external chemical catalysts. RAFI has investigated patent claims that connect the Terminator's "suicide sequence" to enhanced herbicide or fertilizer applications (thereby transferring the sterilization costs from the company to the farmer); other Terminator-type claims that reach beyond plants to insects and mammals; and still other patents that explicitly weaken the plant's pest and disease resistance capacity as part of the genetic sterilization process. The ultimate goal appears not to be to force farmers to buy corporate seed every year but to force farmers to pay for their seed every year – capturing enormous cost savings for the company and rendering the commercial merit of aggressive new plant breeding moot. Farmers are becoming trapped in a pattern of biological controls that lead inevitably to bio-serfdom.

For more information see http://www.rafi.org

Editorial

Echoes
justice, peace and creation news

Echoes is an occasional publication of the World Council of Churches' cluster on "Issues and Themes", Justice, Peace and Creation team.

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Shaping global capitalism

Making Planet Earth a safe environment for the investments of transnational corporations and financial capital is the ultimate goal of the accelerated process of economic globalization. Globalization transformed and changed the economic and political landscape of the old international paradigm put into place after World War II. In retrospect, the debt issue was one of the most important tools to gain control over national governments and their economic and financial policies through structural adjustment and stabilization programmes (SAPs), which were designed and imposed by the IMF according to the principles of the neo-liberal ideology. Nature in various ways and communities of the poor and marginalized had to pay the price for that and continue to suffer. Even entire nations were pushed into a downward spiral of impoverishment, especially in Sub-Saharan Africa.

Individual national governments and societies have lost out against corporations and banking systems, which became "footloose" actors on "spaceship earth". They created a casino economy that has very little to do with the real economy and the exchange of goods for the survival and life of the people. It is a gigantic machine to make a few already very rich people, corporations and banks, even richer day by day, hour by hour, minute by minute. But still linked to the real economy via the role of money for production and trade, any crisis in the casino of financial speculations has immediate and disastrous consequences for the real economy and the people.

The Asia crisis has shown the volatility of this system. Instead of landing the spaceship and re-building a basis for a moral economy, and life in just and sustainable communities, the major actors like the World Trade Organisation, the IMF and the World Bank further refine their approach, expand their area of influence and increase their power.

Delegates at the WCC's 1998 Assembly called upon the WCC to intensify and deepen its work on globalization and debt – a call that came at the right time.

Martin Robra

Watch out !

Four processes will have decisive influence on the future shape of global capitalism

The Millennium Round of the World Trade Organisation:

The JPC team criticizes the role of the WTO in promoting global trade liberalization. The review of the Agreement on Agriculture and Trade Related Intellectual Property Rights (TRIPS), which are on the WTO agenda for the year 2000, are challenged by communities of farmers and Indigenous Peoples who see their rights neglected and the basis of their very survival threatened. Intellectual Property Rights (also in the context of the Union for the Protection of New Varieties of Plants of the UN World Intellectual Property Organization) became a major instrument of transnational corporations like Monsanto, Cargill and other big players in the world's agribusiness to secure their own power and profits at the expense of poor communities and their food security.

The WTO agenda clearly competes with other multilateral agreements in the UN framework, such as the environmental conventions in the follow-up process to the UN Conference on Trade, Environment and Development (UNCED) in 1992, Rio de Janeiro. This became crystal-clear again at the negotiations on the Biosafety Protocol early 1999. WTO agreements override all other trade and investment agreements signed between governments and can be reinforced by sanctions.

But in addition to the negotiations on agriculture and TRIPS, the EU, USA and other highly industrialized countries want to add new issues to the WTO agenda such as investment, competition policy and government procurement. They call for "comprehensive trade negotiations" in the WTO "Millennium Round" (2000-2003). According to these plans, the content of the Multilateral Agreement on Investment (MAI; cf. two WCC dossiers on the MAI) that was defeated in the Organization for Economic Cooperation and Development (OECD) will appear on the agenda of the WTO through the backdoor and under different labels. This fact is even more alarming since the EU and the USA continue to pursue negotiations on a vast free-trade zone, to be called the Transatlantic Economic Partnership (TEP). MAI-related rules on foreign direct investment were also included in a recent treaty between Mexico and the EU.

The JPC team will continue to monitor the preparatory process of the WTO's Third Ministerial Meeting on November 30 to December 3, 1999, in Seattle and support initiatives by member churches and ecumenical partners on the WTO Millennium Round.

The debt issue

The G8 meeting on June 18-20, 1999, in Cologne, will take decisions on the scope and conditions for future debt relief. Before the meeting, at the time when this article was written, the G8 countries will almost certainly offer only insufficient debt reductions linked to IMF conditions! Details will be worked out, in secret, entirely by the World Bank, IMF and the most secretive cartel of creditors, the Paris Club. The consequence will be even more power for the IMF and the World Bank. These results are unacceptable to the Jubilee South Coalition, which represents Southern ecumenical partners and church-related groups working on the debt issue.

The Comprehensive Development Framework by the World Bank

The "Comprehensive Development Framework" (CDF) is nothing less than an ambitious attempt by the World Bank to coordinate and control almost all development aid, with probable serious consequences for development agencies as well as churches and other ecumenical partners active in the field of development. A "pilot" period of 18 months is already underway. The framework is being tested in thirteen selected countries: Bolivia, Côte d'Ivoire, Dominican Republic, Ethiopia, Eritrea, Ghana, Jordan, Kyrgyz Republic, Morocco, Romania, Uganda, Vietnam, the West Bank and Gaza.

Information on the CDF, made available by the World Bank on the Worldwide Web says "that bilateral donors are keen to move toward greater cooperation to avoid duplication of analytical work and to harmonize the processes for appraisal, monitoring, and evaluation – thus increasing their efficiency and reducing the workload for countries." (http://www.worldbank.org/cdf/cdf-faq.html page 5)

While the IMF talks of "transparency" as a prerequisite for the new "International Financial Architecture", the World Bank is even more ambitious. The bank wants to coordinate and control

almost all development aid. The pressure on bilateral donors and development agencies will increase to adjust to and operate within this framework. The CDF is an instrument effectively designed to control and coordinate the development projects of national governments and civil society.

Any application for a World Bank loan will most likely be linked to compliance with the CDF and the transfer of all information on the different actors involved to the databases of the World Bank and think-tanks like the Development Assistance Committee of OECD. They will provide the strategies and designs of development programmes. Development experts in the ministries of individual governments or the headquarters of development agencies will be asked to quit their jobs – in order to avoid "unnecessary duplication".

The review of the World Summit on Social Development (Copenhagen +5), in June 2000 in Geneva, will be an important platform to re-vitalize the debate on the development conflict. The World Bank will make sure that the discussion on the CDF will take center stage next year and in 2001.

The new international financial architecture

The new international financial architecture is a project promoted by the IMF. Confronted with the failures of its own policies, the IMF simply blames the countries that were the victims of the financial crisis in 1998 and 1999 for not providing the necessary information. More "transparency" is the slogan of the IMF, claiming that with better data they could have done a better job. Every effort is made to get the problem "under control", but there is no sign that the IMF would begin to question the neo-liberal ideology and its underlying assumptions.

The JPC team will further study this process and its implications. Any information that goes beyond the material available on the website of the IMF and can be shared with the JPC Team is most welcome (e-mail mro@wcc-coe.org - or see our address on page 3).

Work on Globalization and Debt

These four processes lead towards a new framework for global capitalism with the WTO and the trade-related agenda at its center. They will also have a decisive influence on the review of the World Summit on Social Development (Copenhagen + 5) in June 2000 in Geneva and the UN General Assembly on the occasion of the Millennium next year in New York. Regarding the UN, it is also important not to overlook the slowly beginning negotiations on financing development in the UN, which will influence North-South relationships.

Future work by the JPC team on these issues was encouraged by the Eighth Assembly of the World Council of Churches in December 1998 at Harare. The assembly called for a response by the WCC and its member churches to the challenge of globalization and the debt issue as a new form of slavery. **A Jubilee Call to End the Stranglehold of Debt on Impoverished Peoples** and the **Recommendations on Globalization** were two of the most important texts approved by the assembly.

The former WCC Unit III Justice, Peace, and Creation had already developed a focus on globalization and debt in its work leading up to the assembly. The new JPC team built on this work and began to implement the recommendations of the assembly without delay. This was only possible because of the strong support of ecumenical partners; the Jubilee South coalition, which has now become a new, vital and important voice; the network on Social Movements, Globalization and Exclusion that was formed in two consultations in November 1997 at Leiden and in April 1998 at Malaga; and some church-related donor agencies and member churches. Cooperation with the Lutheran World Federation (LWF) and the World Alliance of Reformed Churches (WARC) regarding work on the debt issue and globalization was also important. A strategy meeting jointly prepared by a number of those partners and hosted by the National Council of Churches in Denmark took place in May 1999 in Copenhagen. ◆

The foreign debt of most countries in the South has made it ever harder for farmers to make a living

© Peter Williams / WCC Photo

FROM THE MAI TO THE MILLENNIUM ROUND

by Susan George*

At the end of 1994, before the vote on General Agreement on Tariffs and Trade (GATT) in the American congress – which was to establish the World Trade Organization (WTO) – Public Citizen, an NGO founded by US politician Ralph Nader, offered a prize. Public Citizen would give US$ 10,000 to a charity named by any member of Congress who could sign an affidavit testifying that he or she had read the GATT Agreement and could answer ten simple questions about it.

Nobody applied. The USA, like other countries, was on the point of ratifying an agreement that would have disastrous effects on employment, the environment, national sovereignty and democracy, and the legislators knew nothing about it. In the end, after the vote had been postponed for a month, one republican senator accepted Public Citizen's challenge, signed an affidavit and answered the questions. He then held a press conference to announce that he had intended to vote for this Agreement, as he had the year before for NAFTA, but he had changed his mind, horrified at what he had found on reading the text. The Agreement was approved by 235 votes to 200 in the House of Representatives and by 68 to 32 in the Senate. Did the 303 who voted in favour really know what they were voting for?

In France, only 17 deputies voted against the GATT Agreement. It is a safe bet that French members of parliament were as ignorant of its content as their American counterparts. In their defence it must be said that the text of the Agreement runs to several hundred pages, and is deliberately complex and abstruse, but it is binding on our countries and is causing the same havoc in France and in Europe as elsewhere.

The Globalization Observatory is holding this symposium today (6 May) in the hope of averting a similar failure of democracy. With our friends in the artistic world, we were among the first people in France to call attention to the existence of the Multilateral Agreement on Investment (MAI), at a colloquium held at the National Assembly on 3 December 1997. One-and-a-half years later, we can congratulate ourselves that the concerted efforts by the social movement, members of parliament, concerned intellectuals and – after an initial heavy silence – the mass media, have defeated the MAI.

By withdrawing from the MAI negotiations at the Organization for Economic Cooperation and Development (OECD), France torpedoed this Agreement, which was formally laid to rest on 3 December of last year, but **new dangers have immediately arisen**.

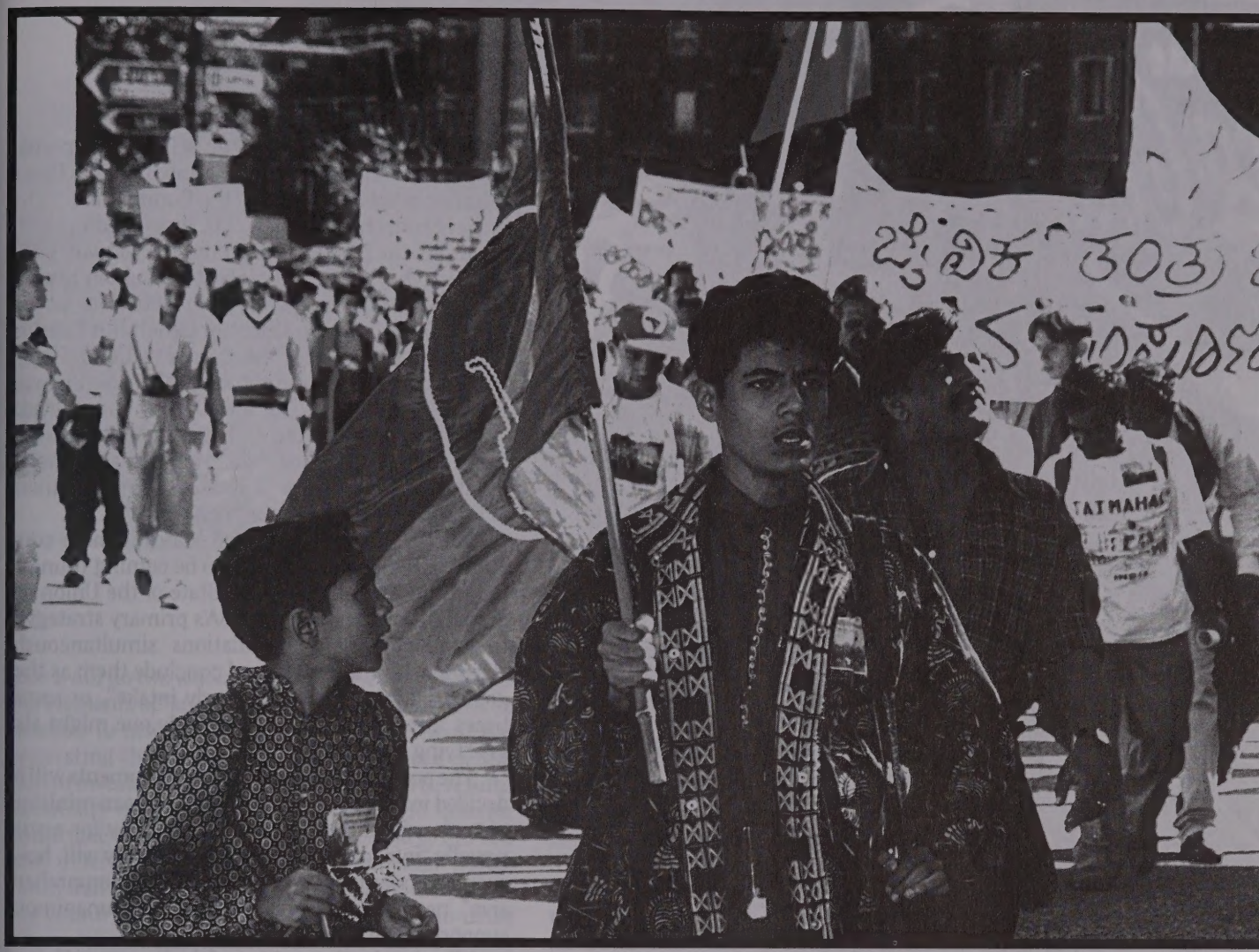
The interests which supported the MAI are still pursuing the same objective, namely, total liberalization of investment. Their strategy now is to deploy on several fronts and catch their opponents in a pincer movement. They plan:

- on the one hand, **to transfer the negotiations on investment to the World Trade Organization (WTO);**
- and on the other, **to create a vast free-trade zone between the USA and the European Union, to be called the Transatlantic Economic Partnership (TEP).**

The Observatory considers it its duty to explain the nature of these dangers, the more so as the political stakes in the negotiations in which our governments have been invited to take part are increasingly complex. The European Parliament's Commission on External Economic Relations has emphasized this:

The European Union's negotiating methods are generally considered to be essentially technical and opaque, and do not allow for an assessment of the implications for society, because of a serious lack of political debate and consultation of civil society.[1]

In the case of the WTO and of the TEP, we are dealing with a series of highly technical agreements, which are difficult to understand. Indeed, the content as a whole is accessible only to the experts who are paid specially only for that. Monitoring by citizens is deliberately made difficult; the task of the



© Peter Williams / WCC Photo

Farmers from around the world demonstrating against the WTO (Geneva, 1999)

politicians practically impossible. If the MAI was opaque, the current strategy sets out to be impenetrable.

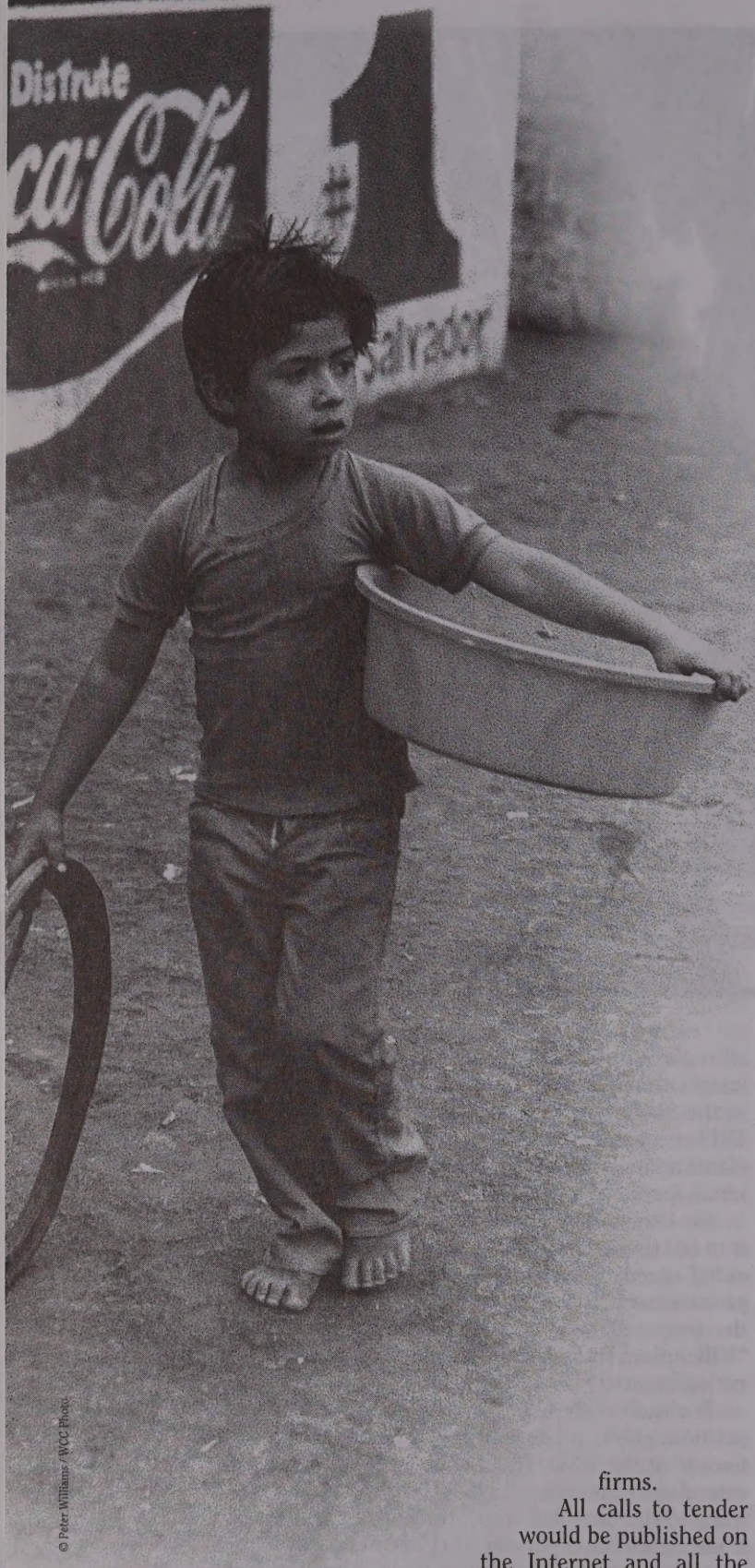
THE MAI IN THE WORLD TRADE ORGANIZATION

When the OECD negotiations collapsed, governments had reached agreement on approximately 90% of the content of the MAI. Having been unable to complete it because of the unprecedented mobilization of their citizens, many of them are keen to add the field of investment to the agenda of the WTO. Sir Leon Brittan, former heir-apparent to Mrs Thatcher, as well as a former (and perhaps future) European Commissioner, is working tirelessly in this direction. He maintains today that the WTO has always been his preferred forum for the negotiations on investment, and travels the world recruiting allies. It should be remembered that the member countries of the European Union do not vote at the WTO but are represented by the Commission – in this case, Sir Leon.

The WTO Ministerial Meeting will take place at the end of November in Seattle. The "built-in agenda" includes agriculture, services (the General Agreement on Trade in Services - GATS) and intellectual property (TRIPs). This agenda is heavy, worrying and laden with unforeseeable consequences for all our countries. Liberalization of agriculture, for instance, could reduce food safety in many countries in the South and ruin small farmers in the North; TRIPs provides for the patenting of living entities – plants animals, micro-organisms and biological material, including genes.

Sir Leon's and hence the Commission's strategy is to add three new fields to this complex and threatening agenda : **investment, competition and public procurement**. The whole thing – the old agenda plus the proposed new fields – has been dubbed the "**Millennium Round**". For the moment, the latter has no legitimacy.

For each of these new areas – investment, competition, public procurement – there is a "Working Group" at the WTO. The mandate of the first two – extended in November 1998 – is restricted to examining relations between trade/investment and trade/competition policies; they are in no way mandated to prepare new negotiations. The Working Group on "public procurement", on the other hand, is working on an "interim agreement" on "transparency" in public procurement markets, as a first stage on the way to complete liberalization which would work on the basis of National Treatment and the Most-Favoured-Nation Clause, like all WTO Agreements. If this Agreement went through, a government could no longer give priority to national



© Peter Williams / WCC Photo

Complete liberalization of trade and investment – for whose benefit?

firms.

All calls to tender would be published on the Internet and all the firms in the world could bid.

Once again, let me say that investment is not yet on the WTO's agenda. These "comprehensive negotiations" can still be avoided, but only if we act quickly. The balance of power at the end of April 1999 is as follows:

When France withdrew from the MAI negotiations it declared itself in favour of transferring negotiations on investment to the WTO (on the pretext notably that the South is represented there). This is the position of Sir Leon and the Commission.

Sir Leon, on behalf of the EU, concluded an agreement with the Japanese government (7 January 1999) in which they speak of their "determination to place investment on the agenda of negotiations at the WTO". According to the Director General for External Economic Relations of the European Commission, the countries in favour of "comprehensive negotiations" (besides the EU and Japan) are Canada, Australia, Mexico, Korea, Latin America (except Brazil) and South-East Asia. Morocco and Tunisia "could come down for a consensus" while India, Pakistan and Egypt remain "sceptical".[2]

The position of the United States is more complicated. Bill Clinton seemed to be coming round to the European position in his State of the Union address last January, but the USA's primary strategy is to conduct various negotiations simultaneously, starting with the easiest, and conclude them as they go. This strategy is called "early intake", or sometimes "first harvest". Less elegantly one might also say "tying up".

The positions of the different governments will be decided in July at the latest. The European ministers of trade will gather in Berlin on 10 May for a supposedly "informal" meeting at which they will, however, be under pressure to endorse the "comprehensive" negotiations. This requires the unanimous support of European countries.

Who decides the position of the European Union? In principle, the governments. In fact, this is strongly influenced by a practically anonymous group called the "113 Committee", appointed by the Council to assist the Commission.[3]

No sooner was the demise of the MAI official than a 113-document defined the strategy for including "investment among the new issues for WTO negotiations". This document was leaked and was found to recommend the same elements as led to the defeat of the MAI.

The document indicates that:

> According to the business community, it would be desirable to work out an agreement on investments in the WTO because there it would cover the largest possible number of developed and developing countries and would also facilitate the effective application of principles such as National Treatment, Most-favoured-nation status and settlement of disputes, to issues of investment. Furthermore, an instrument on investments within the WTO could be improved as it went along and adapted to the new conditions in the course of future rounds of negotiations.[4]

Curiously enough, in the official version of this document (International Rules for Investment and the WTO) published a month later, this wish expressed by the "business community" no longer ap-

Food safety and plant and animal health are under threat

pears, nor do two whole sections explicitly setting out the elements of "an ideal result which would open up markets to new investments and protect them" and reiterating the clauses of the MAI – a broad definition of investment, no obligation in regard to results, possibility of a mechanism by which the investor could take legal action against a state, and so on. The only reference to social or environmental norms notes that these will be "contested by some developing countries". On this subject, "We must also strike a very delicate balance between the conflicting aims of different constituencies within the EU".

The European Parliament deplores this way of proceeding, complaining to the Commission that it is

> poorly informed and not consulted (whereas) the large companies are well-informed and present in the pre-negotiation stages. **As a general principle, the European Parliament must dispose of the same information....as the 113 Committee. The reform of Article 113....regularly called for by the European Parliament, is a priority object for the forthcoming institutional reform.**[5]

The French government for the moment supports Sir Leon Brittan's position concerning the transfer of the negotiations on investment to the WTO, claiming that, unlike the OECD, the WTO is a "democratic forum". In a formal sense this is the case, in that the countries of the South are there. There are, however, many profoundly anti-democratic aspects which should give pause for thought:

- Historically, all the major decisions at the WTO have been worked out by the "Quad" countries: United States, Canada, Japan and the European Union. The best the countries of the South have been able to obtain, at Singapore in 1996, was that investment should be the subject of a Working Group instead of being placed on the agenda forthwith.
- When there are several negotiations – or several working groups – going on at the same time, the countries of the South do not have the necessary personnel to be able to follow them properly.
- The financial crisis means that almost all the countries of the South are subjected to structural adjustment programmes, under the tutelage of the IMF. The latter can oblige them to accept liberalization in all kinds of areas, including investments.

The WTO's Dispute Settlement Mechanism is in the process of establishing a profoundly anti-democratic law. The decision on bananas – in a dispute started by the United States, which produces no bananas, on behalf of Chiquita Brands, formerly United Fruit – **in fact prevents Europe from having its own foreign policy, in this case from upholding the Lomé Convention.** By signing the WTO food-safety and plant and animal health agreement, Europe abandoned its values and allowed the (American) principle of "risk assessment" to prevail over the principle of precaution. **As a result, in a week's time we have to open our markets to American hormone-treated beef.** All WTO panel decisions incorporating an environmental aspect have gone **against the interests of the planet, sustainable development and the Multilateral Agreements on the Environment.** And so it goes on.

Immediately after the WTO decision on bananas, the cabinet of the American Special Trade Representative took on a further eleven lawyers specialising in this type of business. The WTO will be piloted by law suits and not by politics and diplomacy. The US is delighted to get what it wants by this method which the Europeans – not to mention the developing countries – have not mastered. We have to fight this pre-empting of democracy.

With several hundred other organizations around the world, the Globalization Observatory has signed a "Declaration of Citizens' Organizations on the Millennium Round".

> **We refuse any extension of the powers of the WTO, in particular with regard to investment.**

We propose a thorough examination, with a view to sweeping reform, of the impact the WTO has had up till now on employment, consumers, the environment, development, human rights and democracy.

THE TRANSATLANTIC ECONOMIC PARTNERSHIP (TEP)

Since 1995, Sir Leon Brittan has been negotiating with the US, without any mandate to do so, for a "new transatlantic agenda" (NTA). On 27 April 1998, France officially rejected this free trade zone on the grounds of its anti-democratic character and the dangers it would represent for the construction of Europe. Strange to say, just three weeks after this statement by France, the Transatlantic Economic Partnership came into being at the EU-USA summit in London on 18 May 1998, without prior notice and without any public discussion of the content of TEP.

This new abbreviation TEP, replacing NTA, allowed France to save face. But as regards the contents of the agreement itself, it is six of one and half a dozen of the other. The NTA is dead, long live the TEP, which is both multilateral and bilateral in its objectives. The content of TEP is elastic and has never stopped expanding since it saw the light of day on 18 May last year. It is heavily influenced by the Transatlantic Business Dialogue (TABD), which was set up in 1995 at the same time as the NTA to advance "Trade Facilitation", in other words, the dismantling of "non-tariff trade barriers" such as health and environmental regulations, standards, inspection procedures, etc. The TABD's big annual conference is attended by the directors of the top transnational companies on both sides of the Atlantic, and officials such as Al Gore and Renato Ruggiero, Director General of the WTO.

While coalitions all around the world were fighting against the MAI, the European Commission was preparing a long document intended to influence the Council's decision in favour of the TEP. You have to pick your way through its 27 pages in order to grasp the full scope of it.[6] The Commission states that EU-US relations "in the fields of trade and investment ....are still hampered by a large number of barriers"; hence these "negotiating guidelines" according to which the "Commission is authorized on behalf of the European Community and its member states to enter into negotiations (with the USA)" in a large number of fields.

"The agreements negotiated within the framework of the Transatlantic Economic Partnership shall apply throughout the territory of the parties, regardless of their constitutional structure, at all levels of government and on the conditions laid down therein."

This specification is probably directed at the USA which had filed numerous exceptions to the MAI based on the laws of its different states or municipalities. It also seems to give the TEP treaty status (i.e. setting it above national law). The legal status of this set of agreements is not quite clear.

On the multilateral level, the TEP and the TABD work hand in hand with the WTO for, once again, it is a question of endorsing the Millennium Round at the WTO. The Commission's document affirms its intention to add the fields of investment, competition, electronic trading and public procurement to those already foreseen , i.e. agriculture, services, intellectual property, "at all levels of government" of the member countries.

The Commission notes the "usefulness of establishing multilateral rules on investment" and undertakes to "put investment on the agenda of the new multilateral negotiations (of the WTO)". This is MAI model 2.

Although the term "investment" is never defined, it does seem to include at least direct investment and financial investments, the volatility of which has sparked the crises we all know about. The determination to liberalise everything – goods, services and capital – is obvious in the TEP as a whole.

As one expert has commented, it is extremely difficult in the run-up to the Millennium Round to know what questions have been discussed and decided so far within the TEP. There are no written reports. However, from their statements it appears that the TEP is a very important tool for the USA and the EU in preparing for the forthcoming negotiations.[7] Clearly, the **multilateral** content of the TEP is consolidating and institutionalizing an informal process that already existed.

On the bilateral level, the Commission's document explicitly invokes the principle of "National Treatment" for all sectors in order to guarantee "effective access to markets". An American investor will therefore receive the same treatment as a European one and benefit from "increased possibilities of access to markets at all levels of government", including public procurement. Invitations to tender must be issued electronically. The harmonizing of EU/US patenting procedures is also foreseen.

Still according to the Commission document, the bilateral scope of the TEP will aim, through a series of apparently technical but actually highly political agreements, to dismantle the food safety, environmental and health safeguards introduced by Europe. By way of "Mutual Recognition Agreements" (MRA) in a dozen fields, it will be possible to "align standards and regulations". The result would be to legalize on both sides any product which can legally be sold on the territory of either one of the parties. Upon signing these MRAs, governments would be required to dismantle any provision of their national legislation not in conformity with the agreement.

Food safety and plant and animal health measures will be under severe pressure, particularly in areas like hormone-treated beef or genetically modified organisms. You should be aware that the TABD group

on bio-technologies is chaired by UNILEVER and MONSANTO. The Grocery Manufacturers of America (GMA) has already decided to attack European laws on "eco-labelling", the German law on packaging or other laws which "reflect local cultural values and are discriminatory in terms of international competition". The GMA will use the TEP to tackle the European authorities "who have a very restrictive approach to food additives".[8]

In order to "enhance the dialogue between the regulatory authorities" the two parties – EU-USA – undertake to sound out "the opinion of the business community, notably in the framework of the Transatlantic Business Dialogue (TABD)"; they will also endeavour to "reach one or several levels of mutual recognition, especially on the basis of recommendations from industry". The Commission realized belatedly that others besides industry might have an opinion on all these issues, which is no doubt why it has recently and hastily started to set up Transatlantic Environment, Consumer and Labour Dialogues. These different dialogues for environmentalists, consumers and trade unionists are meant to "underpin the TEP process" and will be essentially "consultative", study and discussion groups.

The Commission "recognizes that voluntary codes of conduct are an effective tool for strengthening the capacity of the business community to improve working conditions throughout the world". But this remains voluntary. Nothing obligatory is envisaged either in this field, or in that of the environment. There will be "cabinet-level meetings to maintain the political drive" and "senior officials assisted as needed by ad hoc or expert working groups" who (with the business community) will look after everything.

The "Mutual Recognition Agreements" should lead to "the elimination or reduction of technical rules and regulations; public procurement markets will be open "throughout the territory of the parties", "at all levels of government". Investment will be set within a framework of rules worked out at the WTO.

This long Commission document led to a much more succinct Plan of Action, approved by the Ministers in September and ratified by the European Parliament in November 1998, with only 71 votes against. Yet this Plan contains complex provisions designed to weaken safeguards to protect health, environment, employment, public services and democracy.

The Globalization Observatory calls for an immediate moratorium on the Transatlantic Economic Partnership, transparency on all concerning it and the opening of a public debate to enable citizens to assess its impact on public well-being and democracy. ◆

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(Text taken from the introductory report on the state of negotiations at the World Trade Organization and on the Transatlantic Economic Partnership (TEP) to the US Senate on 6 may 1999 at the occasion of the Symposium of the "Globalization Observatory".)

Notes:

1. *cf. Letter from Presidents Philippe Herzog and Biagio De Giovanni of the Commission on External Economic Relations of the European Parliament, concerning the preparation of the Council meeting on 10 May. Addressed to Mr Werner Müller, serving president of the Council, Commissioners Brittan and Oreja and the President of the Parliament Gil-Robles, on 25 March 1999.*
2. *This is the "balance of power" as described by Agence Europe (23/4/99), "European Commission reviews preparation of Millennium Round", including the report of the European director general for external economic relations, Hans-Friedrich Beseler.*
3. *From Article 113 of the Treaty of Maastricht: "...The Commission shall submit proposals to the Council for implementing the common commercial policy... (The Council) shall authorize the Commission to open the necessary negotiations. The Commission shall conduct these negociations in consultation with a Special Committee appointed by the Council to assist the Commission in this task..."*
4. *European Commission Directorate General, 113 Committee M.D.642/98, date received 15.12.98. Subject: WTO New Round: Trade and Investment, para.6*
5. *Idem, note 1, underlined in the original*
6. *"Recommendation of a Council Decision concerning the negociation of agreements in the field of technical trade barriers... presented by the commission", SEC (98). The copy in our possession is not numbered nor dated.*
7. *Myriam van der Stichele, "The TEP and Millennium Round in the WTO", Paper for the Conference* ***From the MAI to the Millennium Round****, European Parliament, 27-28 April 1999.*
8. *Testimony of Mary C. Sophos, Senior Vice-President, Government Affairs, Grocery Manufacturers of America, before the Trade Sub-Committee of the American Congress, Hearings on the Transatlantic Economic Partnership, 28 July 1998.*

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TRIPS, Traps or Dice?

Gambling with World Food Security

Poor farmers are being told to roll the dice and gamble on intellectual property control over food plants. The ownership of life is onstage at the World Trade Casino. It may not be the greatest show on earth but, for the poor, it could be their last.

by RAFI

(Rural Advancement Foundation International)

Late one afternoon in May, RAFI received a telephone call from some old friends in Nicaragua. Since the Sandinista revolution, the National Genetic Resources Programme and the Agricultural University in Managua have been leading the region's efforts to conserve and develop plant genetic resources for food and medicine. For over two decades, scientists like Jose Cisa and Daniel Querol, their colleagues and students, have toured the fields and forests of Nicaragua, working with farming communities not only to recoup the losses caused by monocultural production but also to develop new crops, products and markets that would sustain Nicaragua's struggling farmers. Years ago, they were dismissed as "romantic idealists". Today, the government and the farmers see them as "romantic realists" – still in love with agricultural biodiversity but most attuned to the economic needs of the country. Despite their passion for innovation, the agricultural scientists are troubled by Nicaragua's ongoing flirtation with legislation that would gamble their country's food security on intellectual property monopolies for plants.

As the researchers explained to RAFI, "The government is about to adopt Plant Breeders' Rights (a form of plant 'patent'). We may have only a matter of days or even hours to propose amendments to the bill. The parliamentary committee is meeting and, if they agree, the legislation will be inevitable." If adopted as proposed, the bill will automatically accept any and all intellectual property claims based on foreign registrations in other countries. It also denies farmers their 12,000-year-old right to save and exchange seed.

An offer that can't be refused?

That Nicaragua is considering an intellectual property system for plant varieties is no surprise. Two US senators last year threatened the deportation of illegal immigrants if Nicaragua did not accept a bundle of six intellectual property laws ranging from copyright changes to the so-called "Plant Breeders' Rights". As though in tandem, officials from UPOV (the Geneva-based Union for the Protection of New Varieties of Plants – a UN-based plant "patenting" convention) also campaigned in the region for similar legislation. More recently, it was rumoured that executives from US-based multinational seed and chemical companies were also applying pressure on the government. But Nicaraguan scientists had been promised that no final decisions would be taken without full and careful consultation. Suddenly, the bill

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was to be pushed through immediately. Concerned people in Nicaragua were appealing to their friends around the world for technical information and advice.

Nicaragua is not an isolated case... Earlier in 1999, patent officials from 16 francophone West African states (OAPI – Organisation Africaines pour la Propriété Intellectuelle), under similar pressure from the USA and UPOV, agreed to similar plant "patent" legislation. The African patent authorities were misled into believing that the monopoly mechanism would bring West African agriculture into the "biotech" world of the 21st Century. The officials were also told that UPOV's convention would allow their countries to comply with the mandatory requirement of the World Trade Organization (WTO) to establish an "effective" legislative mechanism to ensure intellectual property rights for new plant varieties. The OAPI delegates gave in.

To West Africa's surprise and embarrassment, other African states were angered by their action. Before the ink was dry on the OAPI decision, African delegates to a UN Biodiversity Convention meeting in Colombia faxed off a protest to their patent people asking them to reconsider. Simultaneously, a number of civil society organizations in Africa and around the world warned that the OAPI decision could imperil the food security of the 20+ million subsistence farmers in francophone Africa. By the time the 16 patent representatives reached their capitals, officials of the 62-member Organization of African Unity (OAU) were pointing out that the OAPI move contravened a 1998 heads of government decision to create an Africa-wide strategy for plant varieties that is intended to merge the interests of national plant breeders with the national concerns of farmers and Africa's political commitment to farmers' rights. OAPI's anglophone counterpart – the 14 member countries of the African Regional Industrial Property Organization (ARIPO) – announced that it would stand by the OAU position. Meanwhile, African governments and civil society organizations were asking OAPI country parliaments not to ratify the decision reached by patent bureaucrats. The OAU is expected to discuss the issue when leaders gather in Algiers later this year.

Gambling Houses

Two Geneva-headquartered intergovernmental bodies stand at the centre of the global push to "patent" plant varieties: One is the WTO – a much-vilified agency requiring no further introduction. The other is UPOV (whose secretariat is part of the UN World Intellectual Property Organization –WIPO) and is almost unknown outside of Geneva. In 1991, the OECD-dominated UPOV created a harsh new convention that makes it illegal for farmers to save seed and places the burden of proof of intellectual piracy onto the accused rather than the complainant. Although there are mechanisms by which individual governments can make it possible for farmers to save their seeds, there is no certainty that Nicaragua or OAPI states will ensure this option. Around the world, 1.4 billion poor people depend upon farm-saved seed for their food security.

The same acrimonious plant patent debate has parallels throughout the South. Even as this report was being completed, the battle broke out afresh in

Would intellectual property for plant varieties have benefits for poor farmers and for food security?

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Brazil and the congress there invited RAFI to come and testify with only a few day's notice. Throughout the South, signatory states to the GATT Uruguay Round (adopted in 1994) are being improperly pressured to comply with Article 27(3)b of the WTO's TRIPS (Trade-Related Aspects of Intellectual Property) chapter sometime between now and 2006 (depending on their economic status and commercial relevance to the seed industry). According to the WTO, "compliance" means implementing and enforcing legislation that grants intellectual property rights to plant breeders over plant varieties they develop. The form of intellectual property, however, is far from clear. The WTO requires that the protection be "effective" and that it be either a "patent" (implying a reasonably specific and very tough form of industrial property historically meant for gadgets not wheat) or a 'sui generis' (uniquely designed) protection. With obvious self-interest, UPOV officials are energetically directing governments to their 1991 convention. However, in the absence of litigation or arbitration, all is speculative. Neither is anyone certain as to whether their country will be forced to comply with the WTO now, or if they can delay compliance until 2006. To top off the confusion, the signatories to the trade treaty agreed to conduct a review of TRIPS Article 27(3)b in 1999. Given that such a review could significantly alter governments' obligations and legislative timetables, many states are reluctant to commit to plant monopoly laws they might otherwise avoid. Indeed, the indications coming from the WTO's TRIPS Council are that everyone is reluctant to go ahead with the review for a variety of contradictory reasons. The whole review process could well be pre-empted by a formal or de facto new global trade round. When trade ministers gather in Seattle at the end of November this year, they will either give their benediction to a whole new negotiation or reset the clock for reviews of their 1994 agreement.

No Dice

Andrew Mushita of COMMUTECH in Zimbabwe, a veteran of patent negotiations says, "We seem to be debating intellectual property without much intellectual capacity. Nothing is clear and no one seems able to offer clarity." Two oceans away in the Philippines, Neth Dano of SEARICE agrees. "The only thing that makes sense," she suggests, "is not to make laws. Anything adopted now may be inappropriate by November." SEARICE, the Southeast Asian Regional Institute for Community Education in Manila, is working with ASEAN Governments to sort out their options.

Track Record

Would intellectual property for plant varieties have benefits for poor farmers and for food security? UPOV's convention and other plant patenting regimes have a very short and limited history in the South. Where there is a track record, in a country

such as South Africa for example, its apartheid history and the domination of just two companies so skewed the market as to render any study of the legislation's impact useless. In the North, where some countries have had what is usually called "Plant Breeders' Rights" for decades, the lack of data is one of the greatest causes of alarm. "Europe and the USA have had intellectual property for plant varieties for half a century," argues Camila Montecinos of Chile's Centro de Educacion y Tecnologia (CET), "and the seed companies still can't prove that the legislation is beneficial."

RAFI is just completing the third in a trilogy of empirical studies of the three US intellectual property laws that relate to plants. The oldest, passed in 1930, covers asexually propagated fruits and ornamentals. Despite almost seventy years of data, the survey shows: (1) that unlike the claims of the legislation's original backers, plant breeding in new or minor species has not increased substantially (and, in fact, has been declining in recent decades); (2) that the number of breeders has not even kept pace with US population or crop acreage increases and; (3) that there is growing concentration in the hands of fewer and fewer companies.

RAFI also examined US plant patents under that country's industrial patent regime. Plant patents of this kind in the USA have only been permitted since the mid-eighties but RAFI could see no indication of beneficial increases in the numbers of breeders, species bred, or research funds invested.

RAFI's latest study of the US Plant Variety Protection Act of 1970 has identified tremendous concentration in ownership of the 9,000 plant varieties that have been monopolized. The top dozen corporations rule the roost for all the major crop species. Almost all the research activity has focused on soybeans, cotton, wheat, maize, and barley – where, in every case, fewer than half a dozen firms dominate the claims. As with the other two forms of US legislation, there is no evidence of sustained new breeding activity or of real diversification into other species. The scattered evidence from European countries (specifically the UK, Germany, and The Netherlands) suggests a similar track record.

Giving unto Caesar

This is not to suggest that there has been no increase in plant breeding over the past half century. However, the reasons for this increase have nothing to do with the opportunity for intellectual property. They have everything to do with population growth, the expansion of agricultural lands, the strong base of germplasm support from public breeding initiatives such as the Consultative Group on International Agricultural Research (CGIAR), and the advent of jumbo jet cargo transport and laptop computers. Jets allow breeding enterprises to conduct their breeding and seed multiplication activities year-round (moving from the Tropic of Cancer to the Tropic of Capricorn avoiding winters and doubling or tripling the pace of research). Laptops allow breeders to field-manage a vastly greater array of experiments. If rewards were to go where they are due, commercial breeders should surrender their royalties to Boeing, Apple, and the CGIAR.

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The patented biopiracy of Africa's natural resources is becoming epidemic

A Sucker Every Minute?

If granting monopoly protection over seeds – the first link in the food chain, can't be proven unequivocally to be beneficial to industrialized countries, why on earth would the South want to adopt any of these models? Why would the OAPI states or Nicaragua not protect their national sovereignty and food security? Why not delay legislation until the results are in from the TRIPS Review (if it ever happens)? Why would the South not explore Farmers' Rights and other forms of 'sui generis' legislation not dictated by UPOV and the WTO?

Gambling Tax

What is clear from the US experience is that agricultural input costs have risen more than 85% in the past decade. It is also clear that a handful of multinational "Gene Giants" have almost total control over both seeds and chemicals. Indeed, the four multinationals who, in 1998, shared the entire genetically modified crop expect to control well over 80% of the global seed market and almost 100% of the pesticides market within another ten years.

Biopiracy

Some patent authorities in Africa have argued that UPOV membership will help them protect their country's botanical treasures from biopiracy at the hands of foreign breeders. Indeed this is a big problem. The University of Toledo (USA), for example, has two patents on a soapberry compound bred and nurtured by Ethiopian women and further developed by Ethiopian scientists to control schistosomiasis or snail-fever – a debilitating disease in much of Africa.

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More recently, the ForBio company of Australia, together with the University of Hawaii, has claimed a zero-caffeine coffee tree whose critical genes came from the island of Reunion where the quality was long known by local people. Vital compounds from a medicinal plant in Madagascar, the Rosy Periwinkle, were patented by a US pharmaceutical company and are now making hundreds of millions of dollars each year in sales as cancer drugs. University researchers from Australia obtained Tuli cattle (a rare and drought-hardy breed) from Zimbabwe early in this decade. Now the Tuli germplasm is being bred into the tropical livestock herd of Australia and has also been marketed to the USA and Canada. A well-known and well-protected rice species that serves as a 'famine food' and is seen commonly in West African markets was collected in Mali and sent for study to the International Rice Research Institute in the Philippines. IRRI identified an important disease resistance trait in the West African rice but allowed visiting scientists from the University of California (at Davis) to patent the gene in the USA. The American university has offered scholarships to West African researchers as a form of recognition of Africa's contribution. West African farmers might well consider offering training to US scientists instead. OAPI member states have also donated brazzein, a super-sweet protein isolated from the berry of a plant from Gabon, where its qualities are well known to local people. The University of Wisconsin has received four patents on brazzein, Wisconsin has licensed their patents to US biotech companies who are now genetically engineering corn to produce a super-sweetener worth $1.4 billion worldwide. Gabon will receive no benefit but it will have the pleasure of knowing that its berries are contributing in a big way to American obesity.

The patented biopiracy of Africa's innovations and resources is becoming epidemic. An Idaho researcher has claimed an Ethiopian teff, which he is now selling to restaurants in North America. A California scientist who crossed a cowpea in Kenya while working for the International Institute for Tropical Agriculture in Nigeria has claimed "Kunde Zulu" for marketing in the United States. Commercially important forage species have been plucked from farmers' fields from Morocco and Libya to South Africa and Tanzania and placed under Plant Breeders' Rights claims in Australia or New Zealand.

The Enforcers?

Will joining UPOV allow the South to reclaim their rights? Not at all. In every case cited above, African countries have as much right and opportunity to challenge false intellectual property claims outside of UPOV as they do inside UPOV. There are no special mechanisms within UPOV to make such challenges. Worse still, though each of the examples of biopiracy has been made known to the governments concerned – and many have expressed indignation – not one has taken the biopirate to court. Unless and until governments show that they are willing to fight for their rights, there is no reason whatsoever to believe they will improve their bargaining position by surrendering to OECD-biased intellectual property regimes.

Casino Royalties

As Nicaragua and West Africa's governments prepared their surrender to the WTO and UPOV, RAFI staff were visiting Kenya's national patent office in Nairobi. The offices are a modest collection of desks and computers one flight above the neighbourhood's main attraction – a bright and predictably garish casino. The building welcomes its guests with a choice – you can either roll the dice downstairs... or upstairs. Either way, you lose. The poor and the hungry should not have to pray for their daily bread at a gambling casino or at a patent office. ◆

RAFI is an international non-profit, civil society organization headquartered in Canada holding consultative status with ECOSOC, FAO, and UNCTAD. For more than 20 years, RAFI has been monitoring the impact of new technologies on rural societies with particular emphasis on biotechnology and the conservation of agricultural biodiversity. More information on RAFI is available from the website: www.rafi.org

TRIPS and its potential impacts on Indigenous Peoples

by Victoria Tauli-Corpuz

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The imposition of western legal regimes on Indigenous Peoples is one of the root causes of the many problems they faced in the past and up to the present. These regimes either totally negate customary laws, or accommodate only those aspects which reinforce them. The intellectual property rights (IPRs) regime, particularly the Trade-Related Aspects of Intellectual Property Rights (TRIPs) of the World Trade Organization (WTO) Agreements, is the latest example of this kind of imposition.

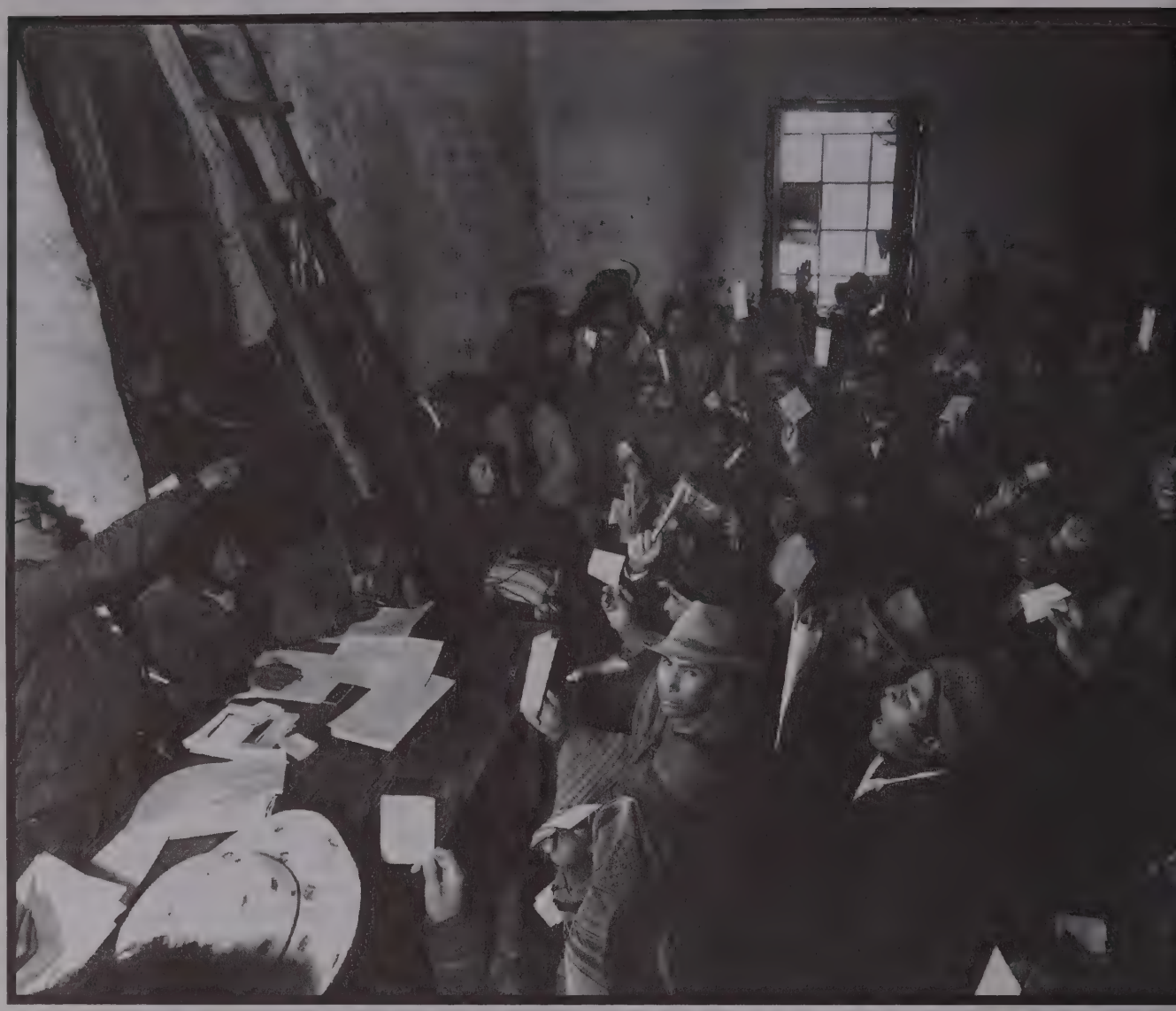
The struggle to bring in IPRs into the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) is a classic case of transnational corporations cooperating closely with the world's most powerful nation-states to ensure that their interests will be legally protected in international and national law. In the past, the colonial governments crafted national laws which facilitated their access and control over the natural resources of their colonies. They also forged unequal bilateral treaties with their colonies or ex-colonies which allowed for free trade or which gave them parity rights to exploit natural resources or set up businesses. At present, aside from bilateral treaties, there are already multilateral agreements like the GATT (now known as WTO) whose role is to ensure that national laws will be changed to conform to the international legal regimes.

The harmonization of intellectual property rights laws to ensure that these are consistent with TRIPs could be disastrous for Indigenous Peoples. It is similar to how national laws and policies on land, forests, governance, etc. were imposed on Indigenous Peoples without any consideration whatsoever of customary laws on these same areas. In this case, however, it is an international body, the WTO, which is acting like national governments. In this case, diverse laws and policies regarding IPR protection have to be recast in the mould of TRIPS.

The form of national legislation on intellectual property rights protection is one bone of contention between the developed countries, developing countries, transnational corporations, and local communities. For Indigenous Peoples, however, the problem lies not just in the form of the law but the essence of the law itself. The TRIPS Agreement is an embodiment of western legal philosophy, norms, values, and mind set that are contrary to many Indigenous Peoples' cosmologies and values.

The key impact of TRIPS on Indigenous Peoples is that it denigrates, undermines, and discriminates against indigenous ways of thinking and behaving. Intellectual property rights are monopoly rights given to **individuals** or legal persons (such as transnational corporations) who can prove that the inventions or innovations they made are novel, innovative and capable of industrial application. Indigenous knowledge and cultural heritage are usually **collectively** evolved and owned. If Indigenous Peoples have to use western IPRs to protect their own knowledge and innovations, they will have to identify individual inventors. This will push unscrupulous indigenous individuals to claim ownership over potentially profitable indigenous knowledge which will cause the further disintegration of communal values and practices. It can also cause infighting between indigenous communities over who has ownership over a particular knowledge or innovation.

The concept of exclusive ownership and alienability inherent in TRIPS will have to be internalized and imbibed by Indigenous Peoples even if it goes against their usual practice of making available such knowledge for the common good. Their identity and survival as distinct peoples has depended to a large extent on this age-old practice of sharing of inalienable resources, knowledge and skills. With TRIPS, Indigenous Peoples will now have to think of how to protect their knowledge against so-called 'bio-pirates'. Sharing of knowledge becomes dangerous because it might be appropriated by those who have the capacity to claim exclusive ownership over such knowledge and commercialize it.



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(Ecuador 1979) Indigenous People today face a new and difficult challenge: to fight against the patenting of life-forms

Pharmaceutical and agri-business transnational corporations are now more aggressive in their bid to gain access and control over indigenous knowledge and genetic resources that can bring them huge profits. Various bilateral agreements are forged between corporations with some national governments, some Indigenous Peoples' communities and organizations, and non-governmental organizations. In many cases, Indigenous Peoples who entered into such agreements are now finding out that they got the raw deal. This is to be expected, however, because Indigenous Peoples are pushed to play in a game in which the rules are defined by the opponents.

The remaining diverse world views, cultural and intellectual heritage, customary laws and bio-genetic resources that allow Indigenous Peoples to assert their rights to self-determination are further undermined by TRIPS. It limits their capacity to ensure that their collectively-evolved knowledge and resources will remain in their control and primarily for their use. It undermines the ethics and practice of sharing and collective ownership because what underpins TRIPS is privatization and commercialization of knowledge. The worst aspect of TRIPS is the way it forces governments to allow for the patenting of life-forms – the ultimate commercialization of life.

The challenge for Indigenous Peoples, therefore, is to assert and develop further their own means of protecting their knowledge, practices and innovations so that they can continue using these for their own and others' benefit. They must be careful not to fall into the trap of assimilating imposed western norms which are not consistent with and undermine their identities as distinct Indigenous Peoples. Thus, they should play active roles in influencing the development of national laws being crafted to conform with the TRIPS requirements. They should fight against the patenting of life-forms. In the review of the TRIPS agreement, even beyond Article 27(3)(b), Indigenous Peoples should be able to formulate their positions and present these to governments and the WTO. ◆

Victoria Tauli-Corpuz is director of the Tebtebba Foundation (Indigenous Peoples' International Centre for Policy Research and Education), Philippines.

Trade-Related Aspects of Intellectual Property Rights (TRIPs) and Pharmaceuticals

by Eva Ombaka

In the signing of the convention instituting the World Trade Organization, member states also bound themselves to a number of treaties on trade in goods and services which were annexed to the convention. One of these agreements is the Trade-Related aspects of Intellectual Property rights (TRIPs) agreement. GATT and other international trade agreements did not cover pharmaceutical patents, as drugs were seen as essential products for public health. In TRIPs, pharmaceuticals are now treated as any other trade commodity and therefore it is expected to have the greatest impact on the pharmaceutical sector.

The TRIPs agreement establishes minimum standards in the fields of intellectual property. A major provision requires that member states grant patents for a minimum of 20 years to any invention of a pharmaceutical product or process that fulfils established criteria. Once granted, the patent protection must be available in all member states. Member states are therefore required to comply by modifying their national regulations within one, five, ten or eleven years depending on stage of development.

Several groups raised concern on the negative impact of TRIPs on the pharmaceutical sector in developing countries. Both empirical data and recent research indicate that prices of drugs will increase and production will concentrate in industrialized countries. As multinational firms will be free to export finished products, there will be little or no transfer of technology or foreign investment to developing countries. France, Germany, Japan, Switzerland, Italy and Sweden introduced patents only after development of their own industry. Countries such as India, Brazil, Mexico were acquiring basic technology through reverse engineering as they patented only product, not process. The TRIPs agreement will automatically prevent such development and the growing pharmaceutical industry in developing countries is likely to collapse.

While the patent system was seen as a way to generate incentives for innovation, member states were given a certain amount of freedom in modifying their regulation in order to adopt measures necessary to protect public health and prevent abuse by the patent holder. Thus member states may, in their laws, provide limited exceptions to the patent holder's exclusive rights e.g. through issuing of compulsory licensing, advanced generic registration and parallel importation of protected products as provided for in the agreement.

If developing countries could implement the TRIPs as it is, some of the concerns could be minimized. However, this is not so: increasingly they are facing political pressure and threats particularly from the US government, preventing them from implementing what is legally allowed. In the last two years, South Africa passed legislation to permit generic substitution and parallel imports in pharmaceuticals, a practice common in Europe and allowed under TRIPs. The US government, at the request of the pharmaceutical industry, using trade threats, has asked South Africa to repeal its legislation. Similarly Thailand which had a statute allowing compulsory licensing, has been threatened by US government and has repealed its own regulation! There are other examples in which the US government is opposing countries trying to enact laws that are identical to US laws! And the pharmaceutical industry is lobbying the US government to put pressure and possible economic punishment on countries for implementing TRIPs as it is. Eighty percent of the pharmaceutical industry is based in the USA and the US government appears to be lobbying for pharmaceutical company commercial interests.

These developments raise a major question: Is the TRIPs agreement going to be used by the powerful to protect corporate profit regardless of the cost in human life? How the TRIPs agreement can be used to ensure access to innovation and affordability of pharmaceuticals is the challenge that WHO, governments, NGOs, consumers and all people interested in justice face. ◆

Eva Ombaka is staff member of the Pharmaceutical Programme jointly sponsored by the WCC and Community Initiatives Support Services (CISS), based in Nairobi, Kenya.

Neoliberal Financial Globalization: CAPITALISM'S GRAVE ILLNESS

by Marcos Arruda

Money has hypertrophied. The instrument that symbolized the real wealth created by humankind has itself been transformed, virtually, into real wealth. From being a symbol of goods to be exchanged on the market, it has become a merchandise itself. This is a fiction, an illusion. Like the Anti-Christ, who presents himself as the real Christ but is just hollow pretence, today's globalized capitalism has made a farce of money. It no longer represents real wealth, and this may be a fatal disease for globalized capitalism.

What is money today? No longer is it just the notes and coins minted by national Treasuries. It is also the securities and bonds produced by government financing agencies, along with the shares, debentures and other papers issued by publicly traded companies, that today cram the capitals markets. All these papers claim to represent real wealth, already produced or to be produced in the future. There are also other countries' currencies, known as foreign exchange, that have gained a market all to themselves, where feverish trading jams phone lines the world over.

Why do governments and companies produce these papers? Their intention is to accumulate liquidity in order to buy and spend more. As one form of money, the securities, bonds and shares seek to raise another form, cash. With money, they rent or buy money – and, more and more, the economy hinges on money instead of real products. Once a means to economic activity, financial operations are becoming more and more an end.

What is the result when governments and companies produce these papers? The result is indebtedness. When the standard reference value was gold, cash was a debt security from the government to its bearer: in exchange for the currency, the bearer was entitled to receive a certain weight of gold. Today, cash no longer has a reference value. In a growing number of countries, one informal standard tends to be the North American dollar, but the dollar is money too, and so is also virtual by nature, until it actually comes to represent real wealth. In other words, any dollar in circulation not based on real wealth is virtual. If that dollar is virtual, then any currency that takes that dollar as a standard is virtual too, in a lengthening chain of virtuality and illusion, of purchasing power greater than the real wealth that exists to be purchased – and therefore an inflationary chain, forever pushing up the price of real products.

Papers backed by that virtual currency whose standard is the virtual dollar are also virtual. Bearers of these papers expect a return, which they receive in the form of the interest they are paid as rent for their cash. Papers are an easy investment for them, because they do not require them to work in order to earn. The earnings come to them either through the work of others or through the cash which is also virtual for lack of underpinning in real wealth. The unregulated and unplanned growth of this activity of exchanging cash for money-papers and vice-versa has resulted in increasing speculation, finally creating a great air bubble in the world economy: a bubble of virtual moneys that

are fuelling processes of spending and consumption by individuals, governments, companies and banks – until the moment the bubble bursts. Now, other than dispersing the bubble, there is no way of preventing it from bursting or from causing an embolism in the system as a whole. This calls for political resolve and an active sense of ethics on the part of all those who benefit temporarily from the bubble. It also requires untiring pressure from those who are prejudiced by it and who will be the chief victims when it explodes.

The Brazilian government is a typical case. By way of a policy of extremely high real interest rates and buying up reals (Brazilian currency) on the financial market in exchange for Treasury and Central Bank securities and bonds, the Fernando Henrique Cardoso government has increased Brazil's internal debt almost sixfold, from R$60 billion in January 1994, when Cardoso took office, to R$373 billion in November 1998. The interest payments on this debt reached R$ 330 billion during the period and have been excruciating for the country's economy. Cardoso built a financial and investment policy on foreign saving, in an endeavour to attract foreign investors' dollars to bridge the gaps in its own accounts. When the crises in Mexico, then in Asia, and then again in Russia, placed these investments and the real's artificial stability in jeopardy, the Cardoso government disregarded the danger warnings. In order to attract this capital which, avid for easy gains and fearful of losing them, was devastating those economies – and which would also threaten to devastate Brazil's economy – instead of creating instruments to control and regulate the inflow and outflow of foreign capital, the government preferred to raise interest rates and even to offer tax exemption to foreign exchange applications. The Brazilian government was irresponsible and reckless and, as a result, its bubble burst on January 12, 1999, threatening to drag other Latin American economies, and even perhaps the USA's, down with it. The Real Plan died there, and Brazil was plunged further into bankruptcy.

Today the bubble of international speculation is formed by all the moneys that circulate rapidly around the world chasing opportunities to reproduce without effort, without productive work, without creating real wealth, merely by changing hands, by speculating with foreign exchange

Today the bubble of international speculation is formed by all the moneys that circulate rapidly around the world chasing opportunities to reproduce without effort, without productive work, without creating real wealth, merely by changing hands, by speculating with foreign exchange, with products that are to be produced and traded in the future, foreign debt securities from indebted countries, and even money from drug trafficking, the arms trade and other illegal and immoral activities. The total sum of all these has not been measured accurately, but today is estimated at nearly US$100 trillion!

A wide range of agents are inflating this bubble. Much is said today about "popular capitalism" in the USA or in Switzerland, where millions of individuals own company shares, government bonds, foreign debt securities, foreign exchange, and so on. The main agents, however, in terms of both the quantity of moneys they wield and the frequency and speed at which these moneys circulate, are the big banks and investment companies, the pension funds and other types of private, and even State, institutional investors. It is they who are responsible for the bubble. And their favourite theatre of operations are the capitals markets set up in the poor world and Eastern Europe in the image and likeness of the capitals markets of the highly industrialized countries. It is they who today stroll their virtual moneys around the world, triggering crises wherever they go, speculatively attacking local currencies, not just when they pull out, but from the moment they enter each economy's domain. Speculative withdrawal would be the most appropriate name for these agents' headlong rush to pull out of a country's capitals markets. Scared? Yes, scared of losing their easy profits.

In mid-January 1999, a small investor in Switzerland showed me his bank statement: he had applied FS6,000 in the portfolio management bank where he worked and, three days later, he redeemed the investment: to his surprise the value had risen to FS7,300!!! A return of more than 21% in three days! What kind of activity could produce a gain of that size that effortlessly? What country or institution could pay interest at that rate? None. It is pure speculation with foreign exchange. With the information that a currency is to be devalued, you invest in foreign exchange and then buy back the local currency after devaluation. And what currency was suddenly devalued in mid-January? The Brazilian real, which lost 25% of its value against the North American dollar between January 12th and 19th and, on the 22nd, had already lost another 18 percent! This is a typical example of exchange speculation. At the root of this speculation there is thought to be some Brazilian government official or other who "tipped off" his international "partner"... That is how the world financial system works today. This is a clear example of the logic and the ethics of capital: whatever multiplies capital gains is valid

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and good, including speculation and corruption; while everything that hinders them is bad or stupid.

The unlimited right of governments and companies to issue these papers has led to the world's markets being inundated with virtual money, because a large part of the papers are launched on the supposition that, sooner or later, the government or company will be able to turn them into real wealth and so redeem them for the value that they are supposed to represent. This supposition belongs to the subjective sphere of the economy, that which operates on the basis of non-material values like confidence, foresight, hope and so on. Now, when the government or company does not manage to repay the bearer of their moneys, it becomes insolvent, thus proving that the supposition was false and that the confidence and hopes deposited in them were mistaken, for lack of proper planning, rules and supervision to ensure that the game was played correctly and cleanly – and because their moneys were only virtual.

In fact, they are as virtual as the chips in a casino, which are equivalent to a certain amount of cash, but not necessarily to real product. The economy of a casino is a circle of virtuality, but even there there has to be planning. If the casino puts into circulation a greater value in chips than the value of the money it expects to collect from its customers, including what will go to pay its operating costs and cover payments to owners and employees, the casino is at risk of going broke. The economic rationale of a casino thus includes a limit on its freedom to issue currency (chips): that is, its capacity to enter into debt with its customers.

Today we are witnessing a casino economy at the world level and, with it, an almost unavoidable risk of worldwide financial, social and economic crisis. A gigantic amount of money circulates around the world in various forms, with no backing in real wealth. Also it is circulating in more and more virtual form; that is, on computer screens instead of papers in the hands of its bearers. Ever since electronics has enabled these moneys to be exchanged via computer, they have been circulating at a dizzying speed. Today, anything – securities, bonds, shares, etc. and even cash in the form of foreign exchange – can be exchanged by electronic means. And these moneys can be issued and circulated free from restrictions, from any effective regulations, even though Central Banks do impose certain rules on companies and banks designed to limit this freedom. When such rules do exist and are made to work, companies' and banks' indebtedness tends to be viable. When governments impose rules on themselves to limit their right to enter into debt – and then comply with those rules – they also tend to remain solvent and manage their nation's economy feasibly and competently, as demonstrated by the municipal government of Porto Alegre, in Southern Brazil.

This no longer happens in the world of financial globalization, however. Governments, companies and banks throughout the world are over-indebted and at risk of bankruptcy. Even the rich countries or the banks and companies that hold most assets have accumulated debts that are leading them, sooner or later, to the moment of truth: either they pay up or go bankrupt. In order not to go broke, governments cut back on their investments, particularly in social programs, and raise taxes. Switzerland, the country with the highest per capita income in the world, a haven for clean and dirty money from all over the world, is a good example of this. Claiming lack of funds, the governments of the confederation and cantons have systematically cut social investment. Recently, the Swiss government announced a one percent increase (from 6.5% to 7.5%) in VAT to offset a 1998 budget deficit of FS 7.6 billion. It later apologized to the public, explaining that there had been a "miscalculation" and the deficit was in fact only FS 300 million. Nonetheless, it did not reimburse the taxpayers nor lower the tax rate. Some months ago, the Japanese banking system was plunged into a severe crisis by the over-indebtedness of the real estate sector. The North American government operates with high levels of indebtedness but, last October, it did not hesitate to bail out the private financial group, LTCM, specialists in speculation, with a package of US$ 3.5 billion culled from public funds. Companies and banks of all sizes, when on the brink of insolvency, often merge with, or are bought out by, others that are sounder at the time. Today we are witnessing a snowball of mergers and buyouts that point to a global economy that, in just a few more years, will be highly concentrated and monopolized... until the bubble bursts.

Neoliberal ideology has shaped the environment for the globalization of financial capitalism. It holds that the laws of the market are universally valid for all spheres of human existence. Everything, including money, should be treated as merchandise, and the market should be left free in order for goods and money to circulate properly. In this way, the market will meet all needs and effectively distribute the wealth produced. All regulation is unwelcome, because it prevents the free flow of goods and money. That is the content and sense of the villainous Multilateral Investment Agreement which was being drafted and discussed in secret by the wealthy countries. In practice, neoliberal capitalism is responsible for the casino-economy that has globalized in the world today – and for the extreme enfeeblement of the State's regulatory role and social function.

In the 80s, for a number of reasons, the indebtedness of countries of the Southern hemisphere, made possible by the irresponsibility of both governments and their creditors, reached the point of insolvency. In exchange for rescheduling these debts, the creditors imposed rules whose prime objective was to liberalize the debtor countries' economies and markets

The over-indebtedness of the countries of the Southern hemisphere, now accompanied by those of Eastern Europe, constitutes a modern form of colonization.

– that is to say, they imposed rules to eliminate rules, to neutralize governments' power to regulate and sanction, including the liquidation of public patrimony by privatizing and denationalizing State enterprises. In this way, governments of very indebted countries, which were generally those with the higher poverty rates and the longest histories of colonial subordination, exchanged real wealth for virtual wealth. Many took out new loans in the 80s to pay off previous loans, and not to invest in creating new wealth or the capacity to produce it. They became trapped into a vicious circle of indebtedness from which they were never going to escape, at least not by the end of this century.

The over-indebtedness of the countries of the Southern hemisphere, now accompanied by those of Eastern Europe, constitutes a modern form of colonization. They are obliged to service the debt to their creditors in the North to a seemingly limitless horizon, as if they were paying a regular tribute to a colonial metropolis. There is one important difference, though: these metropoles are no longer only colonial or imperial powers, but also private companies and banks based in the rich countries, plus the multilateral financial institutions – the World Bank, the IMF and the regional "development" banks.

The disease manifest in the hypertrophy of money and over-indebtedness can only be surmounted by a national and planetary system of planning and regulation, capable of liquidating these ailments at their root. Capitalism itself is unlikely to set up such a system, since the capitalists do not want to see that this is a disease – and one that could be fatal to the system itself. When they do realize, they are unwilling to take radical curative measures, because these measures too could be fatal to the system! In fact, capitalism is increasingly squeezed between these two pressures: on the one hand, pressure for the various

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forms of money issues and indebtedness to be planned and for capital flows to be regulated; and, on the other, the risk of bankruptcy throughout the capitalist system if it fails to adopt these measures.

The real solution for the world, particularly for those who live mainly by their work, lies in summoning up the courage to break with neoliberal capitalism and, in the last analysis, with capitalism itself. This means several things: imposing limits and rules on capital flows and on the issuing of different forms of money; setting up institutions at the national and international levels capable of enforcing these rules and sanctioning agents that break them; adopting an investment policy that will make self-managed models of development viable from the community to the national levels; adopting a policy of progressive taxation, capable of encouraging domestic consumption and production and of discouraging speculation by redistributing wealth and investment; radically reforming the international financial institutions, their principles, functions and way of operating; restoring control over each family's and each community's finances to themselves, by multiplying cooperative savings and credit institutions and by passing appropriate legislation to support them; restoring the power to plan development, from the micro to the macro levels, by using finance as merely a means – because the end should always be individual and collective human development. ◆

Marcos Arruda works for Alternative Policies for the Southern Cone of Latin America (PACS) in Rio de Janeiro, Brazil.

WCC Statement on Debt Crisis

G8 proposals are insufficient

(released 9 June 1999)

The World Council of Churches is of the view that proposals made by G8 governments for solving the debt crisis are insufficient and calls on G8 leaders to adopt a more radical approach at their meeting next week in Cologne. The Council believes that it is lack of political will rather than financial resources that has made it difficult to find a lasting solution to the debt problem.

Experiences with the Highest Indebted Poor Country Initiative (HIPC) indicate that it does not adequately address the problems of the countries that qualify for debt reduction under HIPC conditions. The outcome of the meeting at Cologne is likely to be a broadened HIPC initiative with only slightly better conditions. This adds little to the original proposal as it links debt cancellation with stabilisation and structural adjustments imposed by the IMF.

Christians and Churches in the South and the North are increasingly concerned that major actors in the global economy have stipulated and reordered economic relationships and trade rules in their favour to maximise profits, growth and influence. An insufficient response to the call for cancellation of foreign debt will only motivate and provoke further critique of the global financial and trade systems by an increasing number of people. This will increase the number of voices pointing to the devastating consequences of unfettered and uncontrolled speculation and transnational flow of financial capital.

The G8 governments and the Bretton Woods institutions (World Bank and International Monetary Fund, IMF) have primary responsibility for the root causes of the debt crisis. They initially encouraged irresponsible lending and then compounded the problem by raising interest rates. This resulted in indebted countries being caught in endless cycles of borrowing, losing control of their financial, economic and social affairs, and being forced to implement IMF Stabilisation and Structural Adjustment Programmes. Moreover, debtor governments have also been obliged to give priority to their debt repayments rather than spending on health, sanitation, clean water, education, and other social needs. This has often led to the erosion of local democratic institutions and has built an environment for corruption.

If the G8 governments are genuinely concerned about poverty and impoverishment, they should accompany initiatives for debt cancellation with reforms of the financial and trading systems and also respond positively to the demand for greater control of the transnational flow of capital by governments and civil society. However, their response to the recent Asian

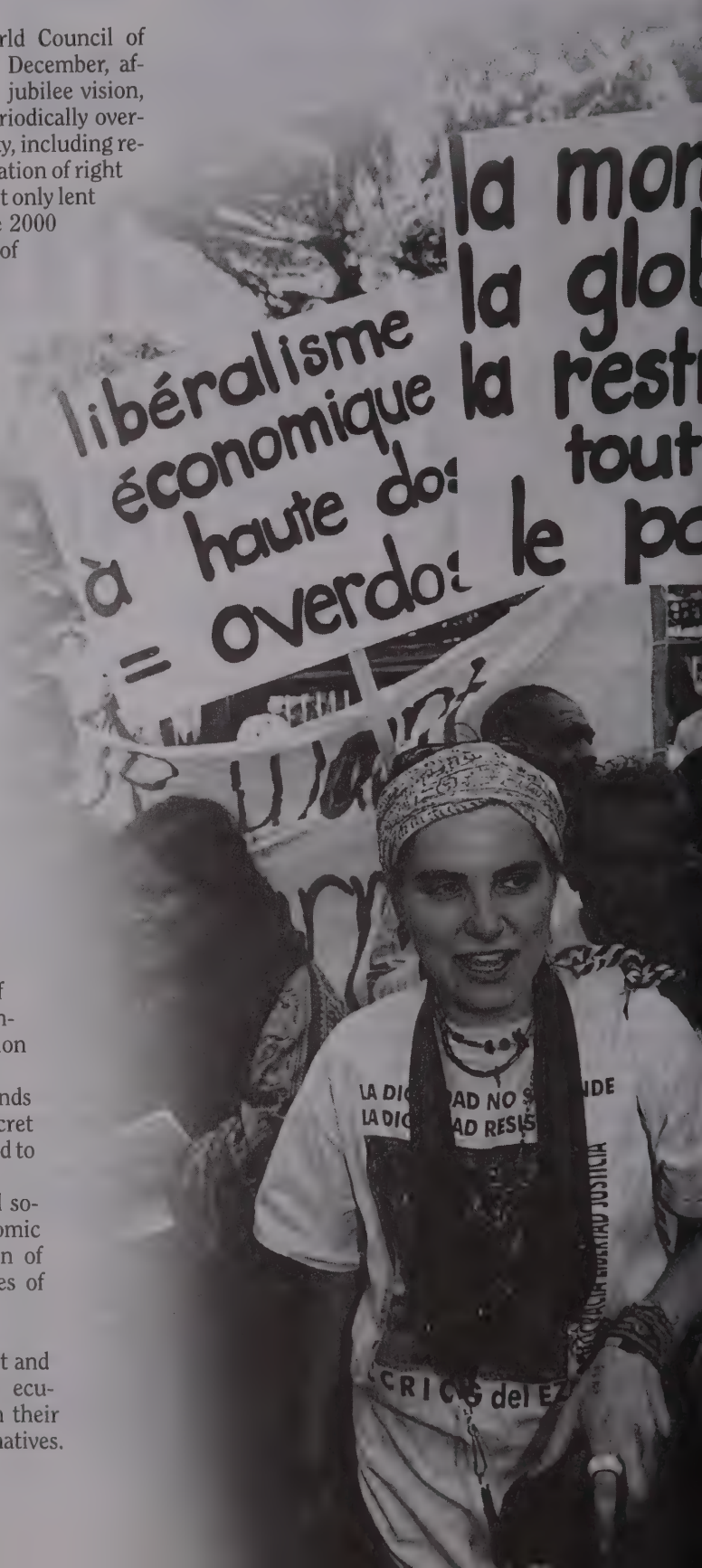
financial crisis, which revealed the volatility of the global financial system, points in the opposite direction.Their response has supported the Multilateral Agreement on Investments and increased power for the World Bank, IMF and WTO and, through them, for Transnational Corporations.

The eighth assembly of the World Council of Churches, which met in Harare last December, affirmed the importance of the biblical jubilee vision, which offers a critical mandate for periodically overcoming structural injustice and poverty, including release from debt and slavery, and restoration of right relationships. The Harare Assembly not only lent its support to the goals of the jubilee 2000 coalitions, but appealed to the leaders of the G8 nations to recognize the urgent need to:

a. cancel the debts of the poorest countries to enable them to enter the new millennium with a fresh start.
b. substantially reduce the debts of the middle income countries within the same time frame
c. accept that debt cancellation cannot wait until conditions set by creditors are met.
d. introduce a new, independent and transparent arbitration process for negotiating and agreeing upon international debt cancellation
e. implement measures to promote accountability of debtor countries when debts are relieved. These measures must be determined and monitored by local community organizations, including churches and other representative organizations of civil society, to ensure that debt cancellation leads to a just distribution of wealth.
f. use their powers to ensure that funds illegitimately transferred to secret foreign bank accounts are returned to debtor nations
g. engage, in consultation with civil society, in a process of global economic reform toward a just distribution of wealth and preventing new cycles of debt.

The WCC will continue to support and co-operate with member churches, ecumenical organisations and groups in their search for just and sustainable alternatives.

The biblical vision of the jubilee encompasses and embraces more than a single campaign. It gives hope to people, struggling for economic justice and the affirmation of life. ◆



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A new beginning - new challenges new hopes!

The last few months have been hectic for the World Council of Churches. Even as we continue to reflect on the follow-up of the VIIIth Assembly of the WCC in Harare, Zimbabwe in December 1998, the WCC has also moved into a new programme structure, in response to the call for it to become a more effective and responsive ecumenical instrument. The new structure demands a more collaborative and integrated work style— and a sharper and more focused agenda of activities that only the WCC can effectively do on behalf of the churches. *Justice, Peace and Creation* is one of the teams within the cluster on "Issues and Themes" along with teams on *Faith and Order, Mission and Evangelism and Education and Ecumenical Formation*. As we planned our work for the next three years, we got excited about the possibilities of joint work not only within this cluster but with the cluster on " Relationships and Constituencies", which includes *International Relations, Regional Relations, Church and Ecumenical Relationships* and *Inter-Religious Relations.*

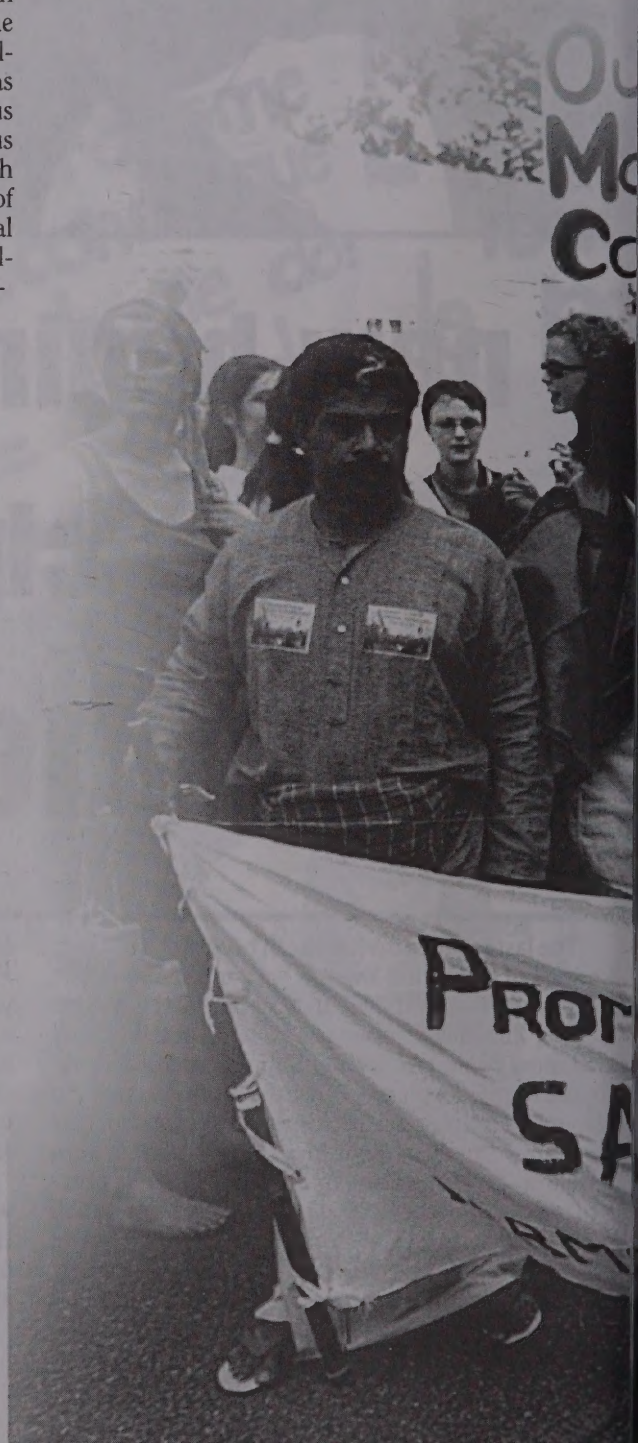
The *Justice, Peace and Creation* team is concerned with economy and ecology, ecumenical social thought, Indigenous peoples, racially and ethnically oppressed peoples, women, youth and people with disabilities. A small internationally diverse group of staff

carry responsibility for the programme. Let us meet them now.

Even as I write this piece, Marilia Schüller has just concluded a workshop in Cuba of the Women under Racism network on gender and race; Martin Robra is in Driebergen, Netherlands, for a meeting of the advisory reference group on climate change, (this project is staffed part-time by a consultant, David Hallman, with the support of the United Church of Canada). We are also preparing for a consultation in Sri Lanka on theological perspectives on violence and non-violence; Freddy Knutsen and Maria Koutatzi are in Greece for the evaluation and restructuring of the World Youth Projects programme; Samuel Kabue, who will work from Nairobi with the support of the National Council of Churches in Kenya, has been in Geneva to put the finishing touches to a programme for strengthening the network of people with disabilities; Eugenio Poma has been discussing creative ideas about continuing the work with the WCC's Indigenous constituency with a small group of Indigenous Peoples, even as he prepares to set off to India with Bob Scott to continue liaising with the network of Dalit Solidarity Peoples. I am finalizing a pastoral women-to-women team visit to the women and children of Indonesia in the context of the recent political and religious turmoil in that country; I am also preparing a meeting of women staff of Regional Ecumenical Organizations (REOs) that will work on how now to challenge the churches to move from solidarity to accountability to women. In all this, we are ably supported by Alexandra Pomezny, Susie Harrison, (who plays a key role producing *ECHOES*) Marise Pegat-Toquet, Janet Thomas and Marina Biarge-Thurre.

In the midst of all this, we have been privileged to receive the visit of Dr Susan George of the Transnational Institute in Paris to speak to us about the movement to cancel the debt of the poorest nations of the world in the context of globalization and unjust international financial and trade relations. While she was here, 100 farmers, representing farmers from around the world in Geneva to raise awareness on the impact of globalization on agriculture, on the earth...on their life also visited the WCC. The World Trade Organization closed its doors that afternoon, supposedly for security reasons, and refused to dialogue with the farmers! At the WCC, they shared simple stories of their struggles to protect the earth and their livelihoods. In response, WCC general secretary Konrad Raiser recognized that such local experiences inform and illuminate discussions on the global economy. The Intercontinental Caravan is a symbol of what global solidarity should in fact mean, Dr. Raiser affirmed.

The commitment to issues related to justice, peace and creation has been with the WCC under different guises since its inception. However, it was the VIth Assembly of the WCC in Vancouver in 1983 which identified "Justice, Peace and the Integrity of Creation (JPIC)" as inter-related concerns. A world convocation in Seoul in 1990 called for a conciliar process on JPIC, and made ten affirmations calling the churches to act on a wide spectrum of concerns. In our new post-Harare programme structure, the small JPC staff team, with advisory groups to back it, will ensure that these interlinked concerns stay on the WCC agenda.



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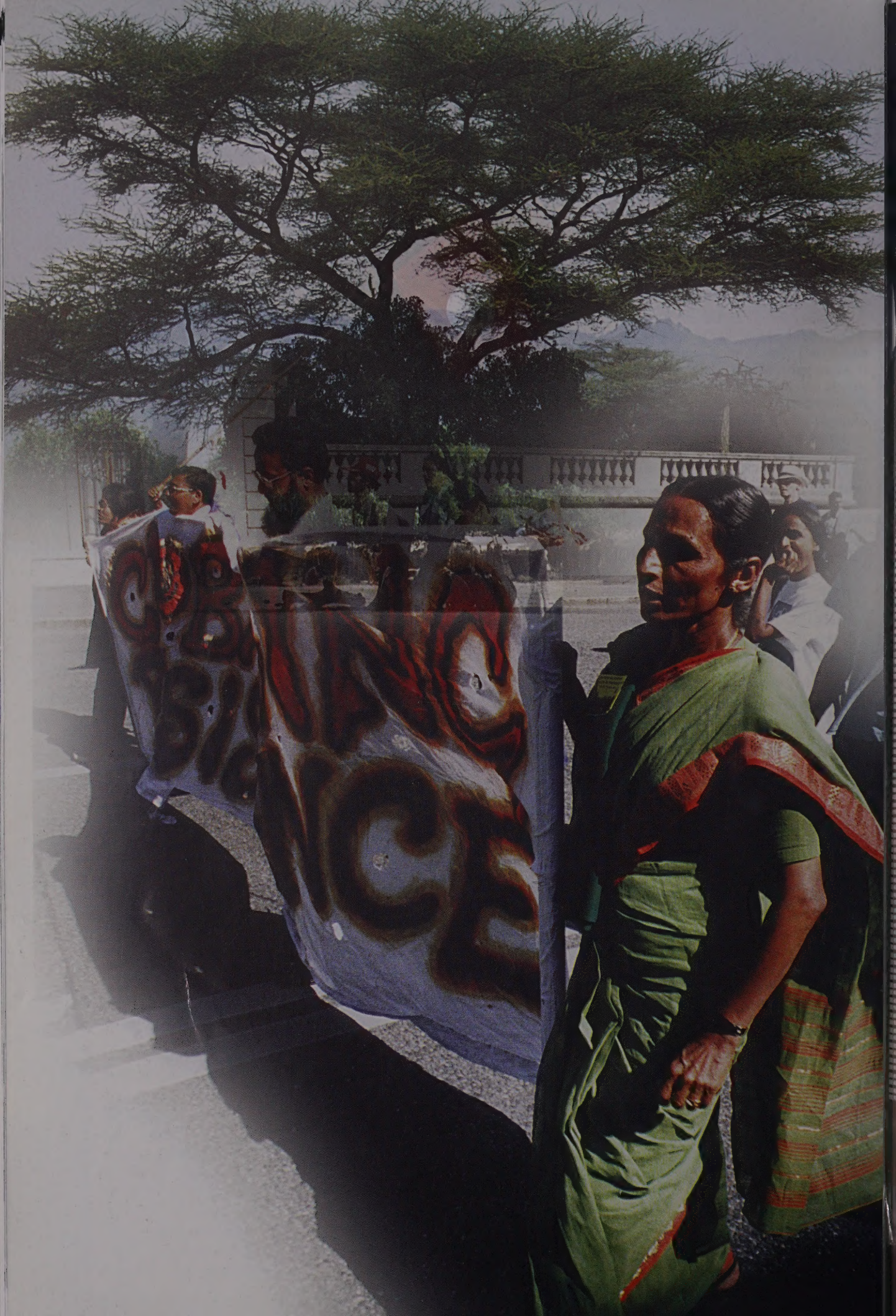
It will continue to courageously and creatively affirm an alternative worldview and new models of being the church. It will help create ecumenical spaces for genuine dialogue and reflection. While advocating for the participation of the constituencies we represent in the church and the ecumenical movement, the team will attempt to ensure that the often muted minority voices are also heard. We know we have something new to offer to the church and society... and offer it we will! ◆

Aruna Gnanadason
Coordinator
Justice, Peace and Creation team

Geneva
June 1999